CHAPTER 81-03-04
ESTIMATED TAX

81-03-04-01. Corporation required to report and pay estimated tax and interest - Refund of overpayment.

1. Any corporation may elect to make a payment of estimated income tax with the tax commissioner.

2. A corporation is required to make a payment of estimated tax with the tax commissioner if:

    a. The corporation's previous year's state income tax liability exceeded five thousand dollars; and

    b. The corporation reasonably expects the current state income tax liability to be in excess of five thousand dollars.

3. For the purpose of this section, tax liability is defined as the amount of North Dakota tax due computed after the application of allowable credits and before the application of estimated payments.

4. When making payment of estimated income tax, a corporation has the option of basing the estimation on the tax liability for the previous year or on an estimate of the liability for the current tax year.

5. The payment of estimated income tax must be made on or before the fifteenth day of the fourth month of the current corporate tax year. The original payment of estimated income tax may be amended anytime before the fifteenth day of the first month of the tax year following the current tax year.

6. A corporation shall pay the estimated tax liability in four equal installments payable on the fifteenth day of the fourth, sixth, and ninth month of the current tax year and the fifteenth day of the first month of the following tax year. As an alternative to paying in quarterly installments, a corporation may pay the entire estimated amount on the fifteenth day of the fourth month of the current tax year.

7. For taxable years beginning after December 31, 1986, the provisions for recurring seasonal income as provided in section 6655(e) of the Internal Revenue Code are recognized for state income tax purposes.

8. For taxable years beginning after December 31, 1990, the provisions for the annualized or adjusted seasonal method of determining estimated income under section 6655 of the Internal Revenue Code are recognized for state income tax purposes.

9. For purposes of subsection 5 of North Dakota Century Code section 57-38-62:

   a. An amended return filed on or before the due date, including extensions for filing the original return, is the corporation's return for that taxable year.

   b. An audit assessment does not affect the calculation of estimated tax payments.

10. Interest shall apply in the following conditions:

    a. A corporation did not pay the estimated tax on or before the quarterly due date.

    b. The quarterly estimated payments were underpaid by more than ten percent of the actual tax liability for the current tax year divided by four. However, no interest will apply if the quarterly estimated payments equaled the previous year's total tax divided by four.

11. Estimated tax payments, received as a result of an amendment to the originally estimated tax, will have interest computed from the date paid to the date due in the related quarters.

12. If the total amount of estimated tax payments exceed the total amount of tax required to be paid for the current tax year, the overpayment will be refunded.

13. a. If the total amount of estimated tax payments exceeds the anticipated tax liability for the tax year by more than five hundred dollars, a quick refund may be requested. The request for refund must be filed on forms provided by the tax commissioner. In addition, the request must be filed after the close of the tax year and before the original due date of the tax return. No interest will be paid on a quick refund.

    b. If a quick refund of estimated income tax results in a corporation's failure to meet the requirements of North Dakota Century Code section 57-38-62, interest provisions will apply.

History: Effective July 1, 1985; amended effective November 1, 1987; November 1, 1991; August 1, 1994; April 1, 1996; July 1, 1998.
General Authority: NDCC 57-38-56
Law Implemented: NDCC 57-38-62

81-03-04-02. Payments of estimated taxes by individuals, estates, and trusts.

1. Except as otherwise provided, an individual, estate, or trust subject to section 6654 of the Internal Revenue Code, relating to failure to pay estimated income taxes, shall make payments of estimated state income tax.

2. For purposes of subsection 5 of North Dakota Century Code section 57-38-62:

    a. An amended return filed on or before the due date, including extensions for filing the original return, is the individual's, estate's, or trust's return for that taxable year.

    b. An audit assessment does not affect the calculation of estimated tax payments.

3. Interest for failure to make payments of estimated state income tax must be waived by the tax commissioner in the following situations:

    a. When an individual derives over two-thirds of gross income from farming, files a federal income tax return by March first of the following tax year, and pays the federal tax in full by that same date, but does not make payments of estimated state income tax. The individual does not have to file a state income tax return or pay any state income tax due on or before March first of the following tax year to qualify for this waiver of interest.

    b. When an individual derives over two-thirds of gross income from farming, makes the one required estimated federal tax installment on January fifteenth of the following tax year, files a federal income tax return after March first of the following tax year, and pays the estimated state income tax due on January fifteenth of the following tax year. The first three payments due on April fifteenth, June fifteenth, and September fifteenth of the current tax year are not required to qualify for this waiver of interest.

    c. When an individual, estate, or trust utilizes the annualized income installment method for federal purposes as provided in section 6654 of the Internal Revenue Code, and makes the required estimated state income tax payment based thereon.

    d. When an individual, estate, or trust has a current year tax liability which exceeds the taxpayer's withholding by less than five hundred dollars, and the taxpayer does not make payments of estimated state income tax. The five hundred dollar limitation applies per return.

3

4. To determine tax liability for the immediately preceding year, married taxpayers who filed separate returns in the prior year, but who plan to file a joint return for the current year, shall combine the tax liabilities reflected on their prior year returns. Joint estimated tax payments for the current year must equal or exceed one hundred percent of the couple's total tax liability for the prior year if the prior year test is applicable.

History: Effective November 1, 1987; amended effective July 1, 1989; March 1, 1990; November 1, 1991; April 1, 1996; June 1, 2002.
General Authority: NDCC 57-38-56
Law Implemented: NDCC 57-38-45, 57-38-62, 57-38-63, 57-38-64

81-03-04-03. Estimated income tax payment. Any amount received by the tax commissioner designated as an estimated state income tax payment, including an overpayment of income tax that is credited to the taxpayer's estimated income tax for the following tax year, may not be used by the tax commissioner to offset any liability owed to North Dakota by the taxpayer, nor may the taxpayer request that the tax commissioner use any amount designated as an estimated payment to offset a state liability of the taxpayer. Prior to crediting an overpayment of income tax to the taxpayer's estimated income tax for the following tax year, the tax commissioner may apply an overpayment to offset unpaid child support or may apply an overpayment as provided in North Dakota Century Code section 57-01-12.1 and subsection 3 of North Dakota Century Code section 57-38-35.1.

History: Effective November 1, 1992.
General Authority: NDCC 57-38-56
Law Implemented: NDCC 57-38-62